THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 11151 of 1998

DATED: 11-7-2007

Between:-

Sk. Mujahid s/o Mastan, aged about 23 years, R/o Door No.11-0732, Kasai Street, Kavali, Nellore District and 14 others.

…PETITIONERS

And

The Government of A.P. represented by its Secretary, Education Department, Secretariat, Hyderabad and two others.

…RESPONDENTS

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O R D E R

The relief sought for in this writ petition is for a direction to the respondents to regularize the services of the petitioners in the 3rd respondent college with effect from their respective dates of appointments and accord them all attendant benefits.

Petitioners, 15 in number, are employed in the 3rd respondent college which was admitted to Grant-in-aid. Consequent on vacancies arising in teaching and non-teaching posts, due to retirement or promotion of the incumbents, the 3rd respondent college is said to be appointing and engaging persons on temporary basis to ensure that work did not suffer. Petitioners claim to belong to such a category. It is their case that, since they possessed the requisite qualifications, and have been continuing in service for a long time, they are entitled to have their services regularized. Petitioners would refer to a few other such orders issued by the competent authority regularizing services of employees and would claim parity.

In the counter affidavit filed on behalf of the respondents, the

Joint Director in the office of the Commissioner of Collegiate Education states that in so far as respondents 4, 8 and 13 are concerned, they have subsequently been appointed on a regular basis.

What remains for consideration is the grievance of petitioners 1 to 3, 5 to 7, 9 to 12 and 14 and 15. It is stated in the counter-affidavit that these petitioners did not fulfill the criteria prescribed in G.O. Ms. No. 212 dated 22.04.1994 and that, in any event, the Government had issued G.O. Ms. No. 35, dated 27.03.2006 communicating their policy for filling up of the aided posts in the private aided colleges in the State by direct recruitment. It is stated that, under G.O. Ms.
No. 35, dated 27.03.2006, there is a general ban on filling up of aided vacancies in private aided colleges under direct recruitment and, as such, the question of considering the request of the petitioners, for regularization of their services against Grant-in-aid posts in the 3rd respondent college, did not arise.

Sri J. Venkateswara Reddy, learned counsel for the petitioners, would vehemently contend that except for the names of the petitioners not having been sponsored by the Employment Exchange, the petitioners fulfill all other conditions specified in G.O. Ms. No. 35, dated 27.03.2006 and, since the Supreme Court had held that recruitment only from candidates sponsored by the Employment Exchange was in violation of Part-III of the Constitution, the respondents were not justified in rejecting the petitioners request for regularization on this

ground.

While this submission of the learned counsel may not be without merit it must, however, be noted that petitioners are working in the 3rd respondent college in posts to which no orders have been passed by the competent authority, approving their appointment made earlier by the private college. It is only when the competent authority passes an order approving the action of the 3rd respondent in appointing these petitioners on a regular basis, would such posts be entitled for Grant-in-aid from the Government. It is well settled that Grant-in-aid is in the nature of financial assistance, which the Government provides to schools and colleges in the State, and that it is not open to any teacher or employee to claim, as a matter of right, that the Government should extend financial assistance in the form of Grant-in-ad to the posts in which he, or she, is appointed. In any event, since under G.O. Ms. No. 35 dated 27.3.2006, the Government had banned filling up of aided vacancies in private aided colleges by way of direct recruitment, the petitioners are not entitled to claim appointment on a regular basis or claim that the posts in which they are working should be admitted to Grant-in-aid. The writ petition fails and is, accordingly, dismissed. However, in the circumstances, without costs.

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RAMESH RANGANATHAN, J

Dated: 11-07-2007
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